

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

ROBERT ALEXANDER KASEBERG,
Plaintiff,
v.
CONACO, LLC, et al.,
Defendants.

Case No.: 15cv1637-JLS (DHB)

**SCHEDULING ORDER
REGULATING DISCOVERY
AND OTHER PRE-TRIAL
PROCEEDINGS**

Pursuant to Rule 16.1(d) of the Local Rules, a Case Management Conference was held on February 23, 2016. After consulting with the attorneys of record for the parties and being advised of the status of the case, and good cause appearing, IT IS HEREBY ORDERED:

1. Any motion to join other parties, to amend the pleadings, or to file additional pleadings shall be filed by **April 22, 2016**.

2. All fact discovery shall be completed by all parties by **August 19, 2016**. "Completed" means that all discovery under Rules 30-36 of the Federal Rules of Civil Procedure, and discovery subpoenas under Rule 45, must be initiated a sufficient period of time in advance of the cut-off date, **so that it may be completed** by the cut-off date, taking into account the times for service, notice and response as set forth in the Federal Rules of Civil Procedure. **Counsel shall promptly and in good faith meet and confer with**

1 **regard to all discovery disputes in compliance with Local Rule 26.1(a).** The Court
 2 expects counsel to make every effort to resolve all disputes without court intervention
 3 through the meet and confer process. If the parties reach an impasse on any discovery
 4 issue, counsel shall file an appropriate motion within the time limit and procedures outlined
 5 in the undersigned magistrate judge's chambers rules. **A failure to comply in this regard**
 6 **will result in a waiver of a party's discovery issue. Absent an order of the court, no**
 7 **stipulation continuing or altering this requirement will be recognized by the court.**

8 3. The parties shall designate their respective experts in writing by **June 24,**
 9 **2016.** The parties must identify any person who may be used at trial to present evidence
 10 pursuant to Rules 702, 703 or 705 of the Fed. R. Evid. This requirement is not limited to
 11 retained experts. The date for exchange of rebuttal experts shall be by **July 8, 2016.** The
 12 written designations shall include the name, address and telephone number of the expert
 13 and a reasonable summary of the testimony the expert is expected to provide. The list shall
 14 also include the normal rates the expert charges for deposition and trial testimony.

15 4. By **August 30, 2016,** each party shall comply with the disclosure provisions
 16 in Rule 26(a)(2)(A) and (B) of the Federal Rules of Civil Procedure. This disclosure
 17 requirement applies to all persons retained or specially employed to provide expert
 18 testimony, or whose duties as an employee of the party regularly involve the giving of
 19 expert testimony. **Except as provided in the paragraph below, any party that fails to**
 20 **make these disclosures shall not, absent substantial justification, be permitted to use**
 21 **evidence or testimony not disclosed at any hearing or at the time of trial. In addition,**
 22 **the Court may impose sanctions as permitted by Fed. R. Civ. P. 37(c).**

23 5. Any party shall supplement its disclosure regarding contradictory or rebuttal
 24 evidence under Fed. R. Civ. P. 26(a)(2)(D) by **September 30, 2016.**

25 6. All expert discovery shall be completed by all parties by **October 28, 2016.**
 26 The parties shall comply with the same procedures set forth in the paragraph governing
 27 fact discovery.

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7. Failure to comply with this section or any other discovery order of the Court may result in the sanctions provided for in Fed. R. Civ. P. 37, including a prohibition on the introduction of experts or other designated matters in evidence.

8. All other pretrial motions must be filed by **November 28, 2016**. Counsel for the moving party must obtain a motion hearing date from the law clerk of the judge who will hear the motion. The period of time between the date you request a motion date and the hearing date may vary from one district judge to another. Please plan accordingly. Failure to make a timely request for a motion date may result in the motion not being heard. Motions in limine are to be filed as directed in the Local Rules, or as otherwise set by the district judge.

9. A Mandatory Settlement Conference shall be conducted on **February 6, 2017** at **10:00 a.m.** in the chambers of Magistrate Judge David H. Bartick. The parties shall submit settlement statements **directly** to Magistrate Judge Bartick's chambers no later than **January 30, 2017**.¹ The parties may either submit confidential settlement statements or may exchange their settlement statements. **All named parties, all counsel, and any other person(s) whose authority is required to negotiate and enter into settlement shall appear in person at the conference.** The individual(s) present at the Settlement Conference with settlement authority must have the unfettered discretion and authority on behalf of the party to: 1) fully explore all settlement options and to agree during the Settlement Conference to any settlement terms acceptable to the party (*G. Heileman Brewing Co., Inc. v. Joseph Oat Corp.*, 871 F.2d 648, 653 (7th Cir. 1989)), 2) change the settlement position of a party during the course of the Settlement Conference (*Pitman v. Brinker Int'l, Inc.*, 216 F.R.D. 481, 485-86 (D. Ariz. 2003)), and 3) negotiate a settlement without being restricted by any predetermined level of authority (*Nick v. Morgan's Foods, Inc.*, 270 F.3d 590, 596 (8th Cir. 2001)).

¹ Statements under 20 pages in length, including attachments and exhibits, shall be e-mailed to chambers at: efile_Bartick@casd.uscourts.gov. Statements exceeding 20 pages in length, including attachments and exhibits, must be delivered directly to chambers.

1 Governmental entities may appear through litigation counsel only. As to all other
2 parties, appearance by litigation counsel only is not acceptable. Retained outside corporate
3 counsel shall not appear on behalf of a corporation as the party who has the authority to
4 negotiate and enter into a settlement. **The failure of any counsel, party or authorized**
5 **person to appear at the Settlement Conference as required shall be cause for the**
6 **immediate imposition of sanctions.** All conference discussions will be informal, off the
7 record, privileged, and confidential.

8 10. Counsel shall file their Memoranda of Contentions of Fact and Law and take
9 any other action required by Local Rule 16.1(f)(2) by **February 23, 2017**.

10 11. Counsel shall comply with the pre-trial disclosure requirements of Fed. R.
11 Civ. P. 26(a)(3) by **February 23, 2017**. Failure to comply with these disclosure
12 requirements could result in evidence preclusion or other sanctions under Fed. R. Civ. P.
13 37.

14 12. Counsel shall meet and take the action required by Local Rule 16.1(f)(4) by
15 **March 2, 2017**. At this meeting, counsel shall discuss and attempt to enter into stipulations
16 and agreements resulting in simplification of the triable issues. Counsel shall exchange
17 copies and/or display all exhibits other than those to be used for impeachment. The exhibits
18 shall be prepared in accordance with Local Rule 16.1(f)(4)(c). Counsel shall note any
19 objections they have to any other parties' Pretrial Disclosures under Fed. R. Civ. P.
20 26(a)(3). Counsel shall cooperate in the preparation of the proposed pretrial conference
21 order.

22 13. Counsel for Plaintiff will be responsible for preparing the pretrial order and
23 arranging the meetings of counsel pursuant to Civil Local Rule 16.1(f). By **March 9, 2017**,
24 Plaintiff's counsel must provide opposing counsel with the proposed pretrial order for
25 review and approval. Opposing counsel must communicate promptly with Plaintiff's
26 attorney concerning any objections to form or content of the pretrial order, and both parties
27 shall attempt promptly to resolve their differences, if any, concerning the order.

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1 14. The Proposed Final Pretrial Conference Order, including objections to any
2 other parties' Fed. R. Civ. P. 26(a)(3) Pretrial Disclosures shall be prepared, served and
3 lodged with the assigned district judge by **March 16, 2017**, and shall be in the form
4 prescribed in and comply with Local Rule 16.1(f)(6).

5 15. The final Pretrial Conference is scheduled on the calendar of the **Honorable**
6 **Janis L. Sammartino** on **March 23, 2017** at **1:30 P.M.**.

7 16. The parties must review the chambers' rules for the assigned district judge
8 and magistrate judge.

9 17. A post trial settlement conference before a magistrate judge may be held
10 within 30 days of verdict in the case.

11 18. The dates and times set forth herein will not be modified except for good cause
12 shown.

13 19. Briefs or memoranda in support of or in opposition to any pending motion
14 shall not exceed twenty-five (25) pages in length without leave of a district court judge.
15 No reply memorandum shall exceed ten (10) pages without leave of a district court judge.
16 Briefs and memoranda exceeding ten (10) pages in length shall have a table of contents
17 and a table of authorities cited.

18 20. Plaintiff's counsel shall serve a copy of this order on all parties that enter this
19 case hereafter.

20 IT IS SO ORDERED.

21 Dated: February 23, 2016



DAVID H. BARTICK
United States Magistrate Judge